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Federal Communications Commission

DA 93-1187

FCC MAIL SECTION
Before the
Federal Communications Commission

Washington, D.C. 20554

OCT 8 3 41 PM '93

MM Docket No. 93-166
DISPATCHED BY

In the Matter of

Amendment of Section 73.202(b), RM-8242
Table of Allotments,
FM Broadcast Stations.
(Rexburg, Idaho and
Afton, Wyoming)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: September 29, 1993; Released: October 8, 1993

By the Assistant Chief, Allocations Branch:

1. At the request of Communicast Consultants, Inc. ("petitioner"), permittee of Station KRXX-FM, Channel 251C3, Rexburg, Idaho, the Commission has before it for consideration the *Notice of Proposed Rule Making and Order to Show Cause*, 8 FCC Rcd 4176 (1993), proposing the substitution of Channel 251C1 for Channel 251C3, and modification of its construction permit to specify the higher power channel. In order to accomplish the upgrade, petitioner also requested the substitution of Channel 254A for Channel 252A at Afton, Wyoming, and modification of the license issued to Wyoming Radio for Station KRSV(FM). Petitioner filed comments restating its intention to apply for Channel 251C1 at Rexburg. No other comments were received.

2. We believe that the public interest would be served by the substitution of Channel 251C1 for Channel 251C3 at Rexburg, Idaho, since it would enable Station KRXX-FM to expand its coverage area. In order to accommodate the upgrade, we will also substitute Channel 254A for Channel 252A at Afton, Wyoming. An engineering analysis has confirmed that Channel 251C1 can be allotted to Rexburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 32.2 kilometers (20 miles) south of the community.¹ In addition, Channel 254A can also be allotted to Afton at the authorized site of Station KRSV(FM).² As requested, we will modify the construction permit for Station KRXX-FM to specify Channel 251C1 at Rexburg, and the license for Station KRSV(FM) will be modified to specify Channel 254A.

3. Petitioner restates its willingness to reimburse the licensee of Station KRSV(FM) for all reasonable and necessary expenses incurred with the change in channels at Afton. See *Circleville, Ohio*, 8 FCC 2d 159 (1967).

4. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 22, 1993, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

City	Channel No.
Rexburg, Idaho	251C1
Afton, Wyoming	254A

5. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the construction permit for Station KRXX-FM, Channel 251C3, Rexburg, Idaho, IS MODIFIED, to specify operation on Channel 251C1 in lieu of Channel 251C3, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the permittee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Station KRSV(FM), Channel 254A, Afton, Wyoming, IS MODIFIED, to specify operation on Channel 254A in lieu of Channel 252A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in the station authorization except the channel as specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the station authorization except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must

¹ The coordinates for Channel 251C1 at Rexburg are North Latitude 43-32-34 and West Longitude 111-53-07.

² The coordinates for Channel 254A at Afton are North Latitude 42-51-02 and West Longitude 110-58-46.

submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, the permittee of Communicast Consultants, Inc., is required to submit a rule making fee in addition to the fee required for the application to effect the upgrade.

8. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this *Report and Order* by Certified Mail, Return Receipt Requested, to the licensee for Station KRSV(FM) as follows: Western Wyoming Radio, P.O. Box 1210, Afton, Wyoming 83110.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Victoria M. McCauley
Assistant Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau